

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RowVaughn Wells, Individually and as
Administratrix Ad Litem of the Estate of
Tyre Deandre Nichols, deceased.

Case No. 2:23-CV-02224

Plaintiff,

**PLAINTIFF’S UNOPPOSED
MOTION FOR MODIFIED
SCHEDULING ORDER**

vs.

The City of Memphis, a municipality;
Chief Cerelyn Davis, in her official capacity;
Emmitt Martin III, in his individual capacity;
Demetrius Haley, in his individual capacity;
Justin Smith, in his individual capacity;
Desmond Mills, Jr., in his individual capacity;
Tadarrius Bean, in his individual capacity;
Preston Hemphill, in his individual capacity;
Robert Long, in his individual capacity;
JaMichael Sandridge, in his individual capacity;
Michelle Whitaker, in her individual capacity;
DeWayne Smith, in his individual capacity and
as an agent of the City of Memphis.

Defendants.

**PLAINTIFF’S UNOPPOSED MOTION FOR MODIFIED
SCHEDULING ORDER**

Plaintiff, by and through her attorneys, hereby files this Unopposed Motion for Modified Scheduling Order and accompanying Joint Modified Proposed Scheduling Order for the Court’s consideration. In support thereof, Plaintiff states as follows:

1. Plaintiff’s Complaint against Defendant City of Memphis, Defendant Chief Cerelyn Davis, and other Defendants was filed on April 19, 2023. ECF Dkt. 1.

2. Following a September 15, 2023 Scheduling Conference, the Court issued the first Scheduling Order in this matter on September 21, 2023. ECF Dkt. 111, including the following deadlines:

- a) ADR Deadline Pursuant to ADR Plan Rule 4.3(a): February 29, 2024
- b) Selection of Mediator Pursuant to ADR Plan Rule 5.4(c): December 1, 2023
- c) Completing All Discovery: April 30, 2024
- d) Interrogatories and Production Requests: February 1, 2024
- e) Requests for Admission: February 1, 2024
- f) Depositions Completed: April 30, 2024
- g) Disclosure of Plaintiff's Rule 26 Expert Information: February 29, 2024
- h) Disclosure of Defendant's Rule 26 Expert Information: April 1, 2024
- i) Expert Witness Depositions: May 31, 2024
- j) Motion to Exclude Experts / Daubert Motions: June 28, 2024
- k) Supplementation under Rule 26(e)(1): April 30, 2024
- l) Filing Dispositive Motions: August 2, 2024

3. Since the Scheduling Conference, the City has provided over 2,000 documents (in excess of 14,000 individual pages) of discovery to Plaintiff. The City continues to provide discovery on a rolling basis, and the City and Plaintiff are in the process of finalizing parameters through identified custodians for email discovery to be propounded.

4. Moreover, Plaintiff's counsel leading discovery review efforts, Bryce Hensley, is no longer employed with Romanucci & Blandin, LLC and will withdraw from representation in

this matter imminently.

5. Plaintiff is also unable to depose the five criminally charged Defendant Officers while their criminal matters are pending, and their civil stays are in place. Their federal criminal trials are set to commence on May 5, 2024, and state criminal trials are scheduled for August 12, 2024. The resolution of those criminal matters and lifting of stays may necessitate further scheduling modifications.

6. Plaintiff, Defendant City of Memphis, Defendant Chief Davis, Defendant Hemphill, Defendant DeWayne Smith, Defendant Robert Long, Defendant JaMichael Sandridge, and Defendant Michelle Whitaker have agreed on mediator Judge Bernice Donald. They have set the matter for mediation on February 9, 2024 with a January 18, 2024 pre-mediation conference. The Remaining Defendant Officers have not participated in mediation efforts.

7. For the foregoing reasons, Plaintiff is seeking additional time to conduct discovery as production is ongoing and requires review, multiple parties cannot engage in written discovery and depositions due to pending criminal charges, and the parties are attending mediation in the near future.

8. Plaintiff proposes and the participating defendants agree to request an extension of most dates by approximately 60 days, as outlined below:

- a) ADR Deadline Pursuant to ADR Plan Rule 4.3(a): April 30, 2024
- b) Selection of Mediator Pursuant to ADR Plan Rule 5.4(c): February 1, 2024
- c) Completing All Discovery: June 30, 2024
- d) Interrogatories and Production Requests: to April 1, 2024
- e) Requests for Admission: April 1, 2024

- f) Depositions Completed: June 30, 2024
- g) Disclosure of Plaintiff's Rule 26 Expert Information: April 30, 2024
- h) Disclosure of Defendant's Rule 26 Expert Information: June 1, 2024
- i) Expert Witness Depositions: July 31, 2024
- j) Motion to Exclude Experts / Daubert Motions: August 28, 2024
- k) Supplementation under Rule 26(e)(1): June 30, 2024
- l) Filing Dispositive Motions: October 2, 2024.

9. The parties are not requesting that the Joint Proposed Pretrial Order, Pretrial Conference Date, or Jury Trial dates be extended at this time.

10. Plaintiff's Counsel met and conferred with Counsel for the City, Defendant Hemphill, Defendant D. Smith, Defendant Long, Defendant Sandridge, and Defendant Whitaker. No Defendant objects to the proposed Modified Scheduling Order. *See* Certification of Consultation *infra*.

11. This Motion is made in good faith and in the interest of judicial efficiency.

12. This is the parties' first motion to extend dates in the scheduling order.

WHEREFORE, Plaintiff respectfully requests that this Court grant this Motion for Modified Scheduling Order.

Dated: January 17, 2024

Respectfully Submitted,

/s/ Sarah Raisch
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CERTIFICATE OF CONSULTATION

I, Sarah M. Raisch, hereby certify that my office contacted all defense counsel via email on January 2, 2024 to ascertain whether Defendants objected to labeling the Modified Proposed Scheduling Order as a “Joint” order. On January 3, 2024 counsel for the City and Defendants Hemphill and D. Smith responded that they did not object. On January 4, 2024 counsel for Defendant Whitaker responded that he did not object to the Modified Scheduling Order. No other defendants responded.

s/ Sarah M. Raisch
Sarah M. Raisch

CERTIFICATE OF SERVICE

I, Sarah M. Raisch, hereby certify that on January 17, 2024, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, and that upon filing, such system will serve a copy of the foregoing upon all counsel of record in this action.

s/ Sarah M. Raisch
Sarah M. Raisch